

SAMUEL & STEIN

ATTORNEYS AT LAW

38 WEST 32ND STREET, SUITE 1110, NEW YORK, NY 10001

PHONE: (212) 563-9884 | FAX: (212) 563-9870 | WEBSITE: www.samuelandstein.com

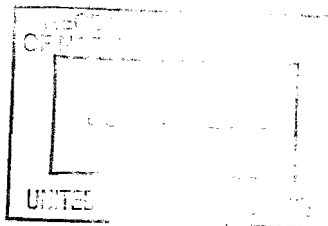
DAVID STEIN
dstein@samuelandstein.com

July 12, 2012

ADMITTED IN
NY, NJ, PA, IL, DC

VIA FACSIMILE TO (212) 805-7927

Hon. Naomi Reice Buchwald, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312



Re: Morales, et al. v. M. Alfonso Painting Corp., et al.
Docket # 11-CV-1263 (NRB)

Dear Judge Buchwald:

We represent plaintiffs in the above-captioned matter, and we write in response to a message from Your Honor's clerk inquiring whether we would be responding to defendants' motion of June 21, 2012. That motion sought dismissal of plaintiff Jose Luis Guzman's case for lack of prosecution.

As defendants correctly note, Mr. Guzman did not appear for his deposition on May 2, 2012¹, despite more than adequate advance notice. We have made diligent efforts to communicate with Mr. Guzman over a period of many months, but have had no contact with Mr. Guzman since sometime last fall. We have called him numerous times at the phone number we have on file for him and have sent him mail at the address we have on file for him. None of these attempts have been successful. In addition, we asked Mr. Guzman's co-plaintiffs if they could try to get in touch with him and tell him to contact our office. Still, we did not hear from Mr. Guzman.

On May 3, 2012, we sent Mr. Guzman a certified letter, return receipt requested, telling him to contact us right away, and expressly warning him that his failure to do so would likely lead to a dismissal of his case. The letter was returned to us as "unclaimed."


When Mr. Guzman did not appear for his deposition, defendants requested that we voluntarily dismiss his claims with prejudice. However, since we have had no communications with Mr. Guzman, we have not been given authority to consent to dismissal of his claims, and we have no actual knowledge of his intentions with regard to this lawsuit. However, for the reasons detailed above, a reasonable inference is that he no longer wishes to participate in this lawsuit; in any case, we have no good faith basis to oppose defendants' motion. Therefore, we will not be filing opposition papers, understanding that this means that Mr. Guzman's claims will be dismissed with prejudice.

¹ Mr. Guzman did not appear on March 15, 2012 for an earlier-deposition; however, defendants were only able to complete the depositions of two of the three plaintiffs who did appear, so there was no prejudice to defendants from this non-appearance.

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We thank the Court for its attention to this matter and are available at the Court's convenience should there be any questions regarding the foregoing.

Very truly yours,


David Stein

cc: Nicholas A. Penkovsky, Esq. (via facsimile and first class mail)